

**APPROVED MINUTES for
ITEM 2.1 CAMDEN VILLAGE APARTMENTS CONDOMINIUM CONVERSION
FREMONT PLANNING COMMISSION REGULAR MEETING
APRIL 12, 2012**

- Item 2.1. **CAMDEN VILLAGE APARTMENTS CONDOMINIUM CONVERSION – 38000 Camden Street – (PLN2011-00176)** - To consider a Conditional Use Permit and Vesting Tentative Tract Map 8077 to allow the conversion of an existing 192-unit apartment development, known as Camden Village Apartments, from rental to for-sale condominiums located in the Centerville Community Plan Area. This project is exempt from the requirements of the California Environmental Quality Act (CEQA), per CEQA Guidelines, Section 15301(k), Existing Facilities.

Planning Manager Wheeler noted a revision to the recommendations to include approval of Vesting Tentative Map 8077, as shown on Exhibit B, based on findings and subject to conditions in Exhibit D. Also, a revision to Condition 19 is recommended, which currently read “Noise deficiency disclosures: In such cases where present noise standards cannot reasonably be met prior to final map approval, the applicant shall be required to notify future potential buyers of the noise deficiency currently existing within units at the time of sale.” Since the condition was prepared, staff had discovered that the method of allowing the deficiency was not correct and if the noise standards cannot reasonably be met, “the applicant shall be required to request a waiver and receive approval from the Planning Commission.”

Mark Mullen, applicant’s agent with Klingbeil Capital Management, used a hard copy of his Power Point presentation. His company had been in business for about 50 years and had been involved with many condominium conversions throughout the country and California. This project was ideal with its 10-acre site and its amenities, such as the interior park. Since the purchase of the property, about \$1.2 million had been spent for ongoing improvements. As units became available, they would be completely renovated with new kitchens, bathrooms and flooring.

The Commissioners asked the following questions:

- **Commissioner Pentaleri** asked what would be the threshold of owner occupancy. What was the existing shared parking arrangement for the commercial lot, Lot 2? Would the parking be unrestricted to the residents?
Mr. Mullen stated that a specific ratio of owner-occupied units had not been incorporated into the draft CC&Rs. Typically, he would envision that everyone would be an owner-occupant. It would be the owner’s province if they chose to move out and hold the unit as a rental. Currently, Lot 2 was all one lot. Going forward, the residents would have the ability to park in the lot with no restrictions.
- **Commissioner Chugh** summarized that the current residents would receive ample noticing, no rent increases would occur for 180 days, current residents

would have the right of first purchaser with five percent off purchase price and financial relocation assistance would be available to qualifying tenants. What was meant by “qualifying?” What would the assistance be?

Mr. Mullen stated, *if a resident moved out tomorrow and a new tenant rented that unit, the first resident would not qualify for relocation assistance when the unit was converted six months down the road. Something like one and one-half or two months' rent.*

Deputy City Attorney Rasiah added that the relocation subsidy specified in the staff report would be three times the monthly rent for existing tenants or a combination of an extended lease or five times the monthly rent for seniors. The rent subsidy could be reduced, depending upon the length of the lease. A qualifying tenant would also depend upon the number of years that they had resided at the property.

If a conflict arose, what would be the prevailing body that would make the decision?

Mr. Mullen stated it would likely be decided between those parties.

- **Vice Chairperson Quan** asked what percentage of the tenants were currently senior citizens and what percentage of the renters does he anticipate would be able to afford to purchase a unit? Were there one and two-bedroom apartments that would be converted? Was the average unit 875 square feet? What was the approximate rental cost for a one-bedroom unit?

Mr. Mullen did not know how many senior citizens lived on the property or the ability of renters to purchase a unit. A discussion was not held with a tenant/owner about whether he could afford to buy a unit. Only the tenant's ability to rent was discussed. In the past, if a resident wished to buy a converted unit and could not obtain conventional financing, the company had offered to loan the money, which was a nice thing. The unit mix includes studios, one-bedrooms, two-bedrooms with one and one-half baths, three-bedrooms with two baths and some with two and one-half baths. He did not know the average square footage or the approximate rental cost.

- **Commissioner Pentaleri** asked how the market price and the five percent discount was measured. After the expiration of the 90-day exclusive offer period, would he be willing to maintain that offer price for some period of time?

Mr. Mullen stated their market group would assess what the market was for such units and the five percent would be based upon that price and would be willing to hold the price for some period of time following the option period. The best source of customers would be the existing residents.

- **Chairperson Bonaccorsi** asked about the requirement prior to final map approval that required abandonment of certain easements that were on the property. Had he been in contact with the public utilities about the abandonment process? Did all of the easements that were listed on the Vesting Tentative Map have to be abandoned? Did he know who the owners of these easements were? What might the timetable be for those approvals of abandonment? They were asking for the City's entire 100-unit allocation for condominium conversion for calendar year 2012. If the approvals were not in place, he feared it would be pushed over to 2013.

Pete McMarrow, civil engineer, stated that there were a number of easements and some of them went through the existing buildings, clipped corners, etc. He knew of no utilities in any of the easements. He believed that many of the easements were left over and never cleaned up when this property was originally developed. A storm easement would be taken care of. Not all of the easements would have to go, but all of the easements that went through a building would have to be taken care of. No, he had not been in touch with PG&E. It would depend upon what PG&E knew about the easements. He expected abandonment would take about six months. The approvals would not take longer than 2012.

- **Commissioner Lorenz** asked if any vacancies existed in the commercial portion of the development. Who would continue to manage the commercial portion of the project? How would it be kept up so that it was a matter of pride for the neighborhood?

Mr. Mullen replied that it is completely rented. It would be on its own fee-simple lot and it would be conveyed. Whoever bought it would be a part of the homeowners' association for the purpose of maintenance of the parking lot and the cross easements, but they would not necessarily participate in pool repair or landscaping. Essentially, an apportionment of dues would have to be paid to the association for the upkeep of the shared area. It would be subject to the CC&Rs.

- **Chairperson Bonaccorsi** asked if the commercial area was anticipated to be upgraded, because it currently looked a little dilapidated.

Mr. Mullen responded, yes, the exterior would be painted and the parking lot and the landscaping would be improved.

Chairperson Bonaccorsi opened the Public Hearing.

Matt Espinoza, Camden Village resident, expressed concerns about how information about this project had been handled. He and the other tenants had been told this was just a “looking into” venture. The tenants were not aware that what had been discussed was what was actually happening. He had happened to see the announcement at the City office, which is how he was aware of tonight’s meeting. Everyone did receive the notices from the City. However, two weeks before, a letter was put on everyone’s door that stated something would be coming from the City, but don’t worry about it. The neighbors to whom he had spoken were concerned. He worried that this project, coming at this time, was not practical, because another balloon-payment bubble was expected to happen soon and these apartments should be available to those people who would be forced out of their homes. Many of the tenants were from other countries and did not know how come forward with their opinions.

The Commissioners asked the speaker the following:

- **Commissioner Reed** expressed alarm that a circular had circumvented the City’s notice. Had he received one of these?

Mr. Espinoza said he had seen one. His neighbor was told not to worry about the potential of a conversion when he had renewed his lease this week. He had

requested a copy of the circular from the management office today and was told that nothing was on file. Not to worry about it, “a meeting would be held where someone would come by and answer your questions.” This duality was very upsetting.

- **Commissioner Salwan** asked what the speaker would like to see that was different. Would he prefer a longer than three-month period be available for the purchase of a conversion? How could the City help him?

Mr. Espinoza stated he did not know how other tenants had been informed. He also worried about the timing, as mentioned above. How would these new people be able to purchase a unit? A six-month period would be better. The assistance program sounded great on the surface, but the information had been confusing. In a perfect world, perhaps pushing the decision back so that more people could be informed of this project and more people could come forward before a decision is made. Many good questions were asked that had not been answered.

- **Commissioner Lorenz** asked for specific information about the notice that said something like, “Don’t worry about it.”

Mr. Espinoza stated two notices were received since he had moved in about two years ago. One was before the sound testing, about nine months ago, with information about the possibility of conversion to condominiums, but not to worry, the entire complex would be informed as to the status. Then the notice received from management about three weeks ago and the City’s yellow notice about a week ago.

- **Chairperson Bonaccorsi** asked if there was a way that an informal notice could be given to the other tenants, if this decision were continued to allow for more input from the public.

Mr. Espinoza said he would be happy to distribute a notice of another meeting.

- **Vice Chairperson Quan** suggested that a notice could be posted in common areas.

Mr. Espinoza agreed.

Mr. Mullen explained that two notices had been prepared. One was a set of notices required by the Subdivision Map Act, which were sent out while working with staff, who reviewed them to make certain that they strictly met the statutory requirements. He had a list of the people who were supplied with those notices. As a courtesy to the tenants, he then sent out a very nice letter to each resident that advised them a letter would be received from the City regarding condominium conversion approval and encouraged them not to panic; they would not be removed from their homes.

- **Commissioner Reed** asked if a copy of the letter was available for the Commissioners to read.

Mr. Mullen said he did not have a copy, but promised to email and circulate it very quickly.

Planning Manager Wheeler stated that she had a copy of the letter. She suggested a short recess to allow time to copy the notice for the Commissioners.

Chairperson Bonaccorsi called a recess at 7:50 p.m.

Chairperson Bonaccorsi called the meeting back to order at 7:58 p.m.

Subsequent questions by the Commissioners were:

- **Commissioner Reed** read the third paragraph of the letter that stated, “. . . It is highly likely the owner will not complete the conversion process or will obtain the necessary approvals to safeguard/obtain the condominium entitlements if approved by the City of Fremont.” What was the speaker’s thought process.
Mr. Mullen stated that he is not aware of anyone making it through the conversion process with the City during the last five years. He felt that the chances of getting through the process were slim, because it is so difficult. It is not because they believed that they could not comply.
What was his reason to believe that?
The City has a reputation for being very difficult, very tough.
- **Commissioner Salwan** asked if he would be amenable to continuing this matter for another month or so to allow some time to engage the tenants.
Mr. Mullen said he would be more than happy to conduct tenant meetings that would allow him to walk them through the process. If it is a choice between being denied or continued, he would choose a continuance. He did not feel that he had made any fouls.
- **Vice Chairperson Quan** asked if he would bring a presentation to the Commission that would address some of their questions, such as, the percentage of senior citizen renters, the number of people he would anticipate could afford to purchase the condominiums.
Mr. Mullen responded, yes, with the possible exception of who could and who could not afford one of the condominiums.
She suggested that the average rent of a one-bedroom/two-bedroom unit in the City versus how much one would expect to sell a unit for. Was base rent one percent of the cost of the price to purchase a condominium?
Mr. Mullen said he would try to find out.

Commissioner Chugh asked what kind of changes could the Commission request from the applicant that would be within its purview.

Planning Manager Wheeler replied that the CUP and the Vesting Tentative Tract Map were before the Commission at this time, along with a whole series of conditions of approval that require improvements to the apartments prior to the final map being recorded. The Commission could amend conditions to address some of the concerns. If this matter were continued, she asked that the Commission identify what specific direction it would like staff to take regarding additional outreach and performing further analysis.

Commissioner Lorenz did not believe any “fouls” had been committed. However, the letter did unintentionally downplay the importance of this meeting and it had circumvented the community input that the Commission needed before proceeding

with a decision. Perhaps outreach could be done with Mr. Espinoza to handle communication with the rest of the residents concerning the future Commission meeting. He would support a continuance.

Planning Manager Wheeler added that, even if the Planning Commission approved the conversion tonight, a number of things needed to happen before a final map could be recorded allowing the units to be sold. There was a two-year period when the Vesting Tentative Map would be valid and extensions for an additional five years could be granted. In light of the real estate market and current economic conditions, she understood that the applicant was not expecting to do this immediately. Public outreach could be made a condition of approval that would help begin an education process for the tenants. It was true that, even if approval were granted tonight, For Sale signs would not be put up tomorrow and no one would lose their home.

Chairperson Bonaccorsi asked how many tenants were month-to-month tenants to whom a simple 60-day notice was required.

Mr. Mullen was not sure. He admitted that he was optimistic, concerning the local real estate conditions. There is no market at this time and he expected that everything would be better for everyone in the future.

Chairperson Bonaccorsi would like to know what the lease terms are, if this matter is continued. He closed the Public Hearing.

Commissioner Salwan asked how many condominium conversions had been approved in a year, historically.

Planning Manager Wheeler answered that a report earlier in the year had a table that showed zero conversions during the five prior years.

Deputy City Attorney Rasiah recalled the memo stated that in 2006 or 2007 two conversion applications had been approved; one for 36 units, the other for 11 units.

Commissioner Pentaleri, for the record, asked if a copy was available of the letter that was sent out three weeks ago.

Planning Manager Wheeler stated that the City does not have a copy of the letter sent three weeks ago.

Chairperson Bonaccorsi agreed with the tenant, Mr. Espinoza, regarding the confusion created by the letter. He agreed that it had caused the tenants to believe they would not really have to act on it. A continuance would allow a public hearing. He would feel relieved when the tenants had the opportunity to “have their say.”

Commissioner Chugh agreed, as did **Commissioner Pentaleri**, who had planned to add two amendments to the conditions of approval.

Commissioner Reed said he would like to see some public outreach by the applicant and answers to the unanswered questions posed by the other Commissioners before another hearing was scheduled.

Planning Manager Wheeler summarized the questions as:

- Percentage of senior tenants.
- Number of tenants who could afford to purchase the converted units.
- Lease terms.
- How many tenants were renting month-to-month.

Added by the Commissioners were:

- The currently unavailable Power Point presentation to be made.
- More detail on improvements to the commercial portion.
- Estimated cost to purchase a unit, vis-a vis, the average cost of lease terms.

Chairperson Bonaccorsi asked what staff might want to include.

Planning Manager Wheeler suggested that the motion include a continuance to a date uncertain and that it would be renoticed.

Commissioner Salwan liked condominium conversions, since they were a great tool for first-time homebuyers. However, the hearing process needed to be continued to make certain that the residents were satisfied. He looked forward to hearing more during the next meeting, since more information would have been helpful during this meeting.

Commissioner Chugh agreed that everyone needed the opportunity to express his/her viewpoint, no matter the outcome.

IT WAS MOVED (REED/SALWAN) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0-0) THE PLANNING COMMISSION – CONTINUE TO A DATE UNCERTAIN.

The motion carried by the following vote:

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| AYES: | 7 – Bonaccorsi, Chugh, Lorenz, Pentaleri, Quan, Reed, Salwan |
| NOES: | 0 |
| ABSTAIN: | 0 |
| ABSENT: | 0 |
| RECUSE: | 0 |